Ninety-Eighth Legislature - Second Session - 2004
Committee Statement
LB 879

Hearing Date: January 28, 2004
Committee On: Revenue

Introducer(s): (Connealy, Baker, Bourne, Hartnett, Janssen, Foley, Schimek, Synowiecki, Thompson, McDonald, Cunningham, Johnson, Stuhr, Burling, Byars)
Title: Provide an income tax credit for charitable contributions

Roll Call Vote – Final Committee Action:

	Advanced to General File
X	Advanced to General File with Amendments
	Indefinitely Postponed

Vote Results:

5	Yes	Senators Baker, Bourne, Connealy, Hartnett and Janssen
3	No	Senators Landis, Raikes and Redfield
0	Present, not voting	
0	Absent	

Proponents:	**Representing:**
Senator Matt Connealy	Introducer
Maxine Moul	EndowNebraska
Kathy Thuman	NE Independent Community Bankers, Maywood Public Schools Foundation
Mike Leighton	Omaha Community Foundation
Robert Stowell	Valley County Foundation, Greater Loup Valley Activities, Inc., Valley County Hospital Foundation
Ron Sedlacek	Nebraska Chamber of Commerce
Robert Hallstrom	Nebraska Bankers Association
Roger Keetle	Nebraska Hospital Association

Opponents:	**Representing:**
None	

Neutral:	**Representing:**
None	

Summary of purpose and/or changes:

LB 879 would create a new tax credit for planned contributions into certain trusts or direct contributions made by corporations. The trusts included are estate planning tools accepted by the Internal Revenue Code for purposes of reducing the size of an estate and therefore reducing estate tax liability. A resident individual would be allowed an income tax credit equal to 40 percent of the present value of a planned gift in the year the gift is made to the trust, not to exceed tax liability or $10,000. The trust must be for the benefit of a Nebraska 501 (C) (3) organization. The credit cannot be carried forward or backward.

An S-corporation or other pass-through entity may also take the 40 percent credit and the credit is distributed to the shareholders, partners or members in the same way profits are passed through. Each shareholder, partner or member is limited to a $10,000 credit. For a C-corporation, the credit is 20 percent of the contribution to the 501 (C) (3) organization, limited to $10,000. Individuals, pass-through entities or corporations could not receive a credit for any contribution that was deducted for income tax purposes under LB 879. An individual contribution may be a planned gift, but a corporate contribution must be an actual gift to the foundation to be eligible for the credit.

The act is to be operative for tax years beginning on or after January 1, 2005, and is to terminate for tax years beginning on or after January 1, 2010.

Section by section summary

Section 1 would amend section 77-2701 to incorporate the new credit in sections 2 through 8 into the Revenue Act.

Section 2 would enact the definition of "planned gift". Planned gift would mean an irrevocable contribution to a permanent endowment held by or for an income tax exempt organization using any one of a list of estate planning tools authorized by the Internal Revenue Code. These techniques include charitable remainder annuity trusts, charitable lead annuity trusts, charitable life estate agreements, etc. Generally, these estate planning tools allow the donor to retain an income stream from property donated to a charity, with the charity receiving full control of the gifted asset upon death of the donor. In other words, the charity gets nothing until the donor dies, at which time the gift is completed and the property itself stays out of the estate.

Section 3 would enact the definition of "qualified endowment" as a permanent, irrevocable fund held by a 501 C (3) organization or a bank holding the funds for such an organization.

Section 4 would provide for the tax credit for an individual. It would be equal to 40 percent of the net present value of the gift portion of a planned gift to a qualified endowment. It would be limited to $10,000 per individual, but could not exceed the tax liability of the individual and could not be carried backward or forward. The credit could not be claimed if the contribution were claimed as a deduction on the state income tax return. Gifts into remainder trusts as defined in section 2 would not ordinarily be deductible in the year made.

Section 5 would provide that a small business corporation, partnership, or LLC could also qualify for the credit in section 4. The credit would be distributed to the shareholders, partners or members in the same way income is distributed. The limit would be $10,000 per shareholder, partner or member, not per entity, and it also could not be carried backward or forward.

Section 6 would allow a corporation an income tax credit equal to 20 percent of any contribution to a qualified endowment. In the case of corporations, a planned gift wouldn't suffice, an actual contribution must be made. The maximum credit would still be $10,000 and it could not be carried forward or back. The credit could not be claimed if the contribution were claimed as a deduction on the state income tax return.

Section 7 would allow an estate or trust to qualify for either the planned gift credit in section 4 or the outright contribution credit in section 6. If the estate or trust cannot use all the credit, it may be passed through to the beneficiaries in the same way income is passed through. The maximum credit per beneficiary would be $10,000 and it could not be carried backward or forward.

Section 8 would terminate the act for tax years beginning or deemed to begin on or after January 1, 2010. Under section 9, the act would be operative for tax years beginning or deemed to begin on or after January 1, 2005. Section 10 would repeal the original section 77-2701.

Explanation of amendments, if any:

The Committee amendments correct the terminology as defined in the bill and change a "shall" to a "may" with regard to rules and regulations.

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Senator David Landis, Chairperson